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Notice of Allowability

Application No.

10/791,958

Examiner

Anthony Fick

Applicant(s)

FAN ET AL.

Art Unit

1753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to after final amendment of 4/30/07.
2. ☒ The allowed claim(s) is/are 1-28.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, see remarks pages 3 through 5 and 1.132 declaration of Qinbai Fan pages 1 through 4, filed April 30, 2007, with respect to the rejection of claims 1 through 28 under 35 U.S.C. 112 first paragraph have been fully considered and are persuasive. The rejection of claims 1 through 28 has been withdrawn.

Allowable Subject Matter

2. Claims 1 through 28 are allowed.

3. The following is an examiner's statement of reasons for allowance: applicant's present invention requires the use of water permeable photovoltaic devices. Some examples of prior art in photovoltaic photoelectrochemical devices include Deng et al. (U.S.P.G.Pub 2005/0211290), Mauk (U.S.P.G.Pub 2004/0003837) and Graetzel et al. (U.S. 6,936,143). The prior art in the area of photovoltaic devices repeatedly describes methods and apparatuses that protect photovoltaic devices from contact with water. The photovoltaic cells that are used in photoelectrodes are covered with specific layers to protect the cells from contact with the water, specifically the p-n junction area from contact with water, see Mauk, Deng et al. and Graetzel et al. Therefore, the prior art teaches away from contact with water for photovoltaic devices.

Applicant's present invention, as shown in figure 5, requires water to flow throughout the entire solar cell to reach the catalytic layer on top for the device to create hydrogen and oxygen. As stated above, the prior art devices repeatedly teach away from solar cells and solar cell junctions having any contact with water, providing special

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protective layers to isolate the water from the solar cells. The water is destructive to the solar cell material and the presence of water within the cell would seem to short out the solar cell, thus preventing the cell from operating as a photovoltaic device. While applicant's declaration has proven that the solar cells still work with water passing through them, it would not have been obvious to utilize such a configuration in the prior art as there would have been no expectation of success from such a cell. Therefore the claims are allowable over the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

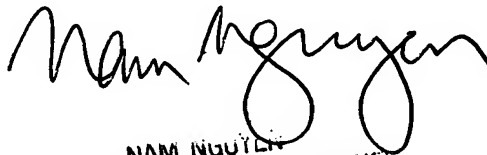
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony Fick whose telephone number is (571) 272-6393. The examiner can normally be reached on Monday - Friday 7 AM to 4 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nam Nguyen can be reached on (571) 272-1342. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Anthony Fick *ADF*
AU 1753
May 10, 2007


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SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700